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C O N F I D E N T I A L SECTION 01 OF 02 BAGHDAD 001332

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SUBJECT: GOI ACTIVE ON SOLVING AMNESTY IMPLEMENTATION PROBLEMS

REF: BAGHDAD 1238

Classified By: Deputy PolCouns Ellen Germain for reasons 1.4 (b) and (d)

¶1. (C) SUMMARY: We are detecting an increased sense of urgency within the GoI concerning implementation of the Amnesty Law. Barham Saleh hosted a third meeting of the core Amnesty group (reftel) on April 21, which led to a decision to have the Ministry of Human Rights track each amnesty release order in the Baghdad area until the detainee is released by the appropriate ministry. Actual releases have risen in the past week, reaching over 1100 releases from Ministry of Justice facilities. Concerns about terrorists being granted amnesty have led to talk of passing an amendment that would exclude from amnesty all detainees charged or convicted of crimes of terrorism. END SUMMARY.

THIRD MEETING OF GOI AMNESTY GROUP

¶2. (C) EmbOff and MNF-I officials attended a meeting at Deputy Prime Minister Barham Saleh's house on April 21, which included Chief Justice Medhat Al-Mahmoud, Deputy Minister of Justice Posho, Minister of Human Rights Wijdan Salim, Chief Prosecutor Ghadanfer, Hadi Al-Amiri (Badr head of the Council of Representatives (CoR) Security and Defense Committee), Abd al-Karim Al-Samarraee (IIP member of the CoR Security and Defense Committee), Harith Al-Obeidy (Tawafiq deputy head of the CoR Human Rights Committee), and several other ministry representatives. This was the third meeting in a series of GoI meetings about amnesty implementation problems. (reftel).

¶3. (C) The tenor of the meeting was serious: almost all of the participants acknowledged that there is a serious problem with respect to the release of detainees. Barham moderated the discussion, which included the need for accurate numbers, recriminations about an unwieldy and flawed statute, especially because it is widely understood to facilitate the release of many AQI members, and a potential start to a solution. On the latter, the suggestion was to empower the Minister of Human Rights to lead a team that will receive amnesty release orders from the Higher Judicial Council (HJC) and be able to work with the Ministry of Interior (MoI), Ministry of Justice (MoJ), Ministry of Defense (MoD), and Ministry of Labor and Social Affairs (MoLSA) to track the relevant individual. (Comment: We think that included within this charge from Barham was the implied demand of the senior leadership of the Executive Branch that those ministries be forthcoming with data and cooperative with this check. End Comment) Minister of Human Rights Wijdan Salim told PolOff on April 28 that Medhat had just sent her 2000 release orders, some with multiple detainees on each order, for her to begin tracking. She said that Medhat will send her 8000 detainee names, focusing on the Baghdad area, which is where the GoI increasingly believes the problem lies. Wijdan also mentioned she will work with the Commission on Public Integrity to track the detainees and ensure there is no corruption in the release process.

¶4. (C) The GoI officials seemed to appreciate USG presence at the meeting. There is a lack of visibility on the Iraqi side about actual release numbers around the country, and USG officials were able to provide some data about the releases, especially in Rusafa Rule of Law Complex, due to the presence of ICITAP advisors. Barham requested USG assistance with transferring some of the detainees released from Baddush prison in Mosul back to Baghdad. According to Barham, those who have been released in the past have sometimes been victims of sectarian murders or attacks nearby. USG officials proposed that because ICITAP already facilitates the transfer of prisoners between Baddush and Rusafa, ICITAP may be able to assist by including those granted amnesty in Baddush in such transfers, so long as ICITAP was given the names of those who were to be released once arriving at Rusafa. Barham and others greeted this proposal warmly. Post will follow up on this preliminary idea.

¶5. (C) Previous statistics simply reported the number of amnesty claims that were granted and denied by province. Medhat gave greater detail on those claims which have been granted, showing them as falling under one of four categories: (1) pre-trial detainees, (2) post-trial convicts, (3) those previously detained but who are now out, on bail or under guarantor for example, and (4) those who have never been detained for the charge at all (for a variety of reasons, including that the charge was very minor, a warrant was issued but never executed, or an investigation was underway but there was insufficient evidence to issue a warrant). Currently, about two-thirds of all grants fall in the latter two categories, those who are not detained by the government at all, meaning that a grant of amnesty merely dismisses a pending case and does not require a release. As

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with the old numbers, however, "grant" numbers still count cases rather than individuals. Since many detainees have multiple cases, the final number of grants does not illuminate the number of people who have been given amnesty. Also, claimants who have a single "deny" will remain detained even if they have a string of "grants." Taken together these facts help explain part of the imbalance between amnesty grants and actual releases.

RELEASES HIGHER

¶6. (C) Actual release numbers over the past week have increased from their previous levels. According to sources, 755 detainees were released from southern MoJ facilities this week under the Amnesty Law. 349 detainees have been released from Rusafa, pushing the total number of MoJ releases to over ¶1100. Minister Wijdan confirmed to PolOff on April 28 that well over 1000 detainees have been released from MoJ facilities. She said, however, that the MoD had only released three detainees although it had received 72 release orders from the HJC.

POSSIBLE AMENDMENT TO EXCLUDE TERRORISTS

¶7. (C) Wijdan told PolOff on April 26 that a new law to amend the Amnesty Law was being discussed among the ministries, CoR representatives, and the HJC. This law would amend the Amnesty Law to exclude from amnesty all detainees charged or convicted of terrorism crimes. (Note: The law currently excludes crimes of terrorism from amnesty only if they resulted in permanent disability or death. End Note.) Wijdan and Medhat think the best way to approach this is by stating the reasoning behind the amendment is based on UN Security Council Resolutions 1373 and 1456, which call for states to bring to justice "those who finance, plan, support, or commit terrorist acts" without referring to the results of terrorist actions. They think the current law violates these resolutions by granting amnesty to detainees charged or convicted of crimes of terrorism. Wijdan and Medhat will recommend this suggested amendment to the Prime Minister, who

can pass it to the CoR for passage. Harith Al-Obeidy confirmed to PolOff on April 28 that this amendment is being discussed and expressed hope that it will be introduced into the CoR soon.

¶8. (C) COMMENT: There seems to be some progress in Amnesty Law implementation. Reports of more releases from MoJ facilities indicate that the MoJ is abiding by HJC release orders. The new tracking procedure could also put some pressure on the ministries to follow the orders and release more detainees, and ensure that proper recordkeeping procedures are followed. While we should encourage ministries to release detainees granted amnesty, we should also be mindful of any discrepancies or irregularities that may occur at the adjudicating committee level and work with the GOI to make sure that the HJC is lawfully implementing the statute. END COMMENT.

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